

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8486 OF 2006

Kamani Tubes Ltd.	.. Petitioner.
Vs.	
Kamani Metal and Alloys Ltd. & Ors.	.. Respondents.

Mr.R.P.Bhat i/b Mr.Kedar Wagle for the petitioner.
Mr.Diniar Madon a/w Ms.Deepa Chavan and Maihili
Raje for respondent nos.2 and 3.

CORAM : D.B.BHOSALE, J.

DATED : 25TH JANUARY, 2007

P.C.:

. Heard Mr.Bhat, learned senior counsel for the petitioners and Mr.Madon, learned senior counsel for respondent nos.2 and 3 for quite sometime. They have fairly stated that for disposing of this petition the reasons need not be recorded and they have agreed for the following orders:

(i) Liberty to the petitioners to file an application within four weeks from today for setting aside exparte decree dated 9.6.1986 passed in R.A.E. & R. Nos.1008/3187 of 1981 and 1009/3188 of 1981. If such an application is filed by the petitioners within four weeks, same may be decided on merits in accordance with law within six months therefrom. It

is open for the parties to raise all the contentions as may be available in law and on facts.

(ii) The order of status quo that was passed on 19th October, 2006 in Miscellaneous Notice No.470 of 2006 shall remain operative till disposal of the application of the petitioners for setting aside ex parte decree, as aforestated, and for a week therefrom if the order on the application is adverse to the petitioners.

(iii) If the petitioners do not make an application for setting aside ex parte decree, as aforestated, within a period of four weeks the order of status quo dated 19.10.2006 shall stand vacated.

(iv) By consent, the order dated 8.12.2006 is quashed and set aside.

(v) Respondent nos.2 and 3 withdraw all the allegations against the concerned Judge.

(vi) The learned counsel for the parties shall jointly apply to the learned Chief Judge of the Small Causes Court requesting him to place Miscellaneous Notice No.470 of 2006 in execution application no.1812 of 2006 in R.A.E.& R. Suit No.1009/3188 of 1981

before any other Judge of the Small Causes Court, except the Judge, who passed the order of status quo dated 19.10.2006. The learned Chief Judge shall allow the application and place the matter before any other Judge for deciding the aforesaid matter on merits.

. The writ petition is disposed of in the aforesaid terms.

. The parties and the learned Judge to act on authenticated copy of this order.

(D.B.Bhosale, J.)